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No. 85-2057

IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.,

Appellant,

vs.

THE STATE BOARD OF EQUALIZATION
AND ASSESSMENT, et al.,

Appellees.

ON APPEAL FROM THE COURT OF APPEALS
OF THE STATE OF NEW YORK

APPELLANT'S REPLY BRIEF

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August 21, 1986

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ON APPEAL FROM THE COURT OF APPEALS
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APPELLANT'S REPLY BRIEF

INTRODUCTION

The present appeal is from an order of the Court of Appeals dated March 18, 1986, affirming the dismissal of appellant's motion for a declaratory judgment that RPTL §744(1) is unconstitutional. The decision below is final, relates to a genuine and immediate controversy among the parties, and presents substantial constitutional issues. This brief is submitted in opposition to the motions filed by the various appellees to dismiss or affirm.[1]

[1] Motion to Dismiss or Affirm of Appellee State Board of Equalization and Assessment ("SBEA Motion"); Motion to Dismiss or Affirm of Appellee City of New York ("NYC Motion"); Motion to Dismiss or Affirm of Appellees Village of Pleasantville, et al. ("Pleasantville Motion"); and Motion to Dismiss or Affirm of Appellees City of Mount Vernon, et al.

I. JUSTICIABILITY

On June 9, 1986, appellant notified the trial court and opposing counsel in writing that it relinquished all remaining state law claims in the 27 proceedings for 1974, by accepting the highest appraisal values which appellees had placed in evidence for 1974. (See the appendix to this Brief at B-1.) Thereafter, the only matter left in issue in those 27 proceedings was the constitutionality of §744(1), and the case had the same status as an ordinary action for a declaratory judgment.[2]

A. The Issue is Not Moot.

Appellees argue that the 1974 proceedings are moot because appellant may no longer be able to obtain a money judgment for that year. However, this contention ignores the status of the 1974 proceedings as an action for a declaratory judgment. A final declaratory judgment of a state's highest court is reviewable by this Court under 28 U.S.C. §1257(2), as long as there is a continuing genuine controversy affecting the rights of the litigants, even though no monetary damages could be awarded. E.g., *Nashville C. & St. L. Ry. v. Wallace*, 288 U.S. 249 (1933); *Richardson v. Ramirez*, 418 U.S. 24, 35 (1974). There can be no doubt about the genuineness of the present controversy. It affects the vital interests of the litigants, immediately and substantially. It is certainly not moot.

B. The Order Dismissing the Twenty-Seven Proceedings for 1974 is Final.

Appellees have raised a number of objections to appellant's appeal on the basis of finality:

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[2] See N.Y. Civil Practice Law and Rules, 7B McKinney's Cons. Laws of New York, §§103, 3001, 3017(a) (one form of civil proceeding in New York; different forms are to be treated as interchangeable); *Lakeland Water District v. Onondaga Water Authority*, 24 N.Y.2d 400, 301 N.Y.S. 2d 1, 248 N.E.2d 855 (1969); *Slewett & Farber v. Board of Assessors, County of Nassau*, 80 A.D.2d 186, 438 N.Y.S.2d 544 (2d Dept. 1981), *modified on other grounds*, 54 N.Y.2d 547, 446 N.Y.S.2d 241, 430 N.E.2d 1294 (1982).

(a) The Pleasantville Motion (at 14) claims that the appeal is defective because the relinquishment of the state law claims was not reflected in an order entered prior to June 16, 1986, when appellant filed the Jurisdictional Statement.

A judgment of a state court is deemed "final" within the meaning of 28 U.S.C. §1257(2) if it disposes of all substantive issues even though there remain to be completed various ministerial matters, such as entries of formal orders. *Department of Banking v. Pink*, 317 U.S. 264, 267-268 (1942). Here, the concession of the state law issues was made on June 9, 1986; that made the Court of Appeals order final. The ministerial need to enter appellant's concession as a judgment did not affect the finality of that Court of Appeals order affirming the dismissal.

(b) Appellees assert that the March 18, 1986 order of the Court of Appeals is not final because the prior New York Appellate Division order, on October 12, 1984, was not deemed final under New York procedure. SBEA Motion 8; Pleasantville Motion 15. This objection is irrelevant because it fails to recognize that, subsequent to the time the Court of Appeals considered the question of the finality of the Appellate Division's order, appellant conceded the valuation issue.

(c) Appellees also claim that appellant's concession for 1974 did not dispose of the valuation issue because they may still offer evidence of higher values. Pleasantville Motion 17. That is plainly wrong. All of the appellees participated at the trial in 1984, and the record for submission of valuation evidence for 1974 has long been closed. No party has any right to introduce new valuation evidence for 1974.

(d) Appellees attempt to confuse the issues by referring to as many as eleven years in controversy other than 1974. E.g., NYC Motion, 7-8, 12-13, 23-24. This appeal covers only the years 1974 through 1977.[3] Each year is a separate cause of action.

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[3] As explained in footnote 2 on page 2 of appellant's Jurisdictional Statement ("J.S."), although the value of the property in the 1975-1977 years has not been

(Footnote continued)

Commissioner v. Sunnen, 333 U.S. 591 (1948); *People ex rel. Hilton v. Fahrenkopf*, 279 N.Y. 49, 17 N.E.2d 765 (1938). Nothing relating to any year after 1974 affects the finality of the 27 proceedings for 1974.*

Until the constitutionality of the state statute is determined by this Court, the same question will remain for subsequent years. If the mere continuation of a constitutional issue in subsequent years were sufficient to destroy finality, no continuing constitutional controversy could ever be heard by this Court.

To the contrary, the fact that the issue persists in every subsequent year demonstrates that the controversy herein is far from moot, that the Due Process claims of appellant will not evaporate, and that the issue should be resolved at the first opportunity.

II. THE FEDERAL QUESTION IS SUBSTANTIAL

Appellees argue that there is no substantial federal question, primarily on the grounds that there are two classes of real property in New York and, therefore, there is no denial of Equal Protection.

This argument fails to address the specific conclusions in the opinion of the court below "that the Legislature has determined that special franchises are to be assessed at a ratio equal to that being applied to other real property. . .", that the legislative "policy [is one] of equal ratio assessment between special franchises and other real property. . ." and that its "objective [is] . . . equality and uniformity of taxation . . . ." A-9-10. It also fails to take into account that, even if there were two classes of property, appellant still has a Due Process right to a hearing on its claim that

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conceded, those years are final, also. But even if those later years are not yet considered final by this Court, the 1974 proceedings alone are sufficient to vest jurisdiction in the Court.

* That the first four years were consolidated for purposes of trial does not change the fact that each year is a separate cause of action. In any event, the judgment entered by the trial court on July 10, 1986 severed 1974 from the subsequent years. See NYC Motion A-7.

the State Board intentionally and systematically ignored the applicable statutory standard in order to inflate the taxes on special franchises.[5]

A. There is only one class of property in New York.

Appellees argue that special franchise property is different from other real property because it is partly personal or intangible, and because different procedures are utilized in making the assessment. Appellees also refer to the difference in the language in former RPTL §306, which required assessments at "full value", and RPTL §606, which requires an equalized value.

Since 1899, when special franchises were first defined and taxed, special franchises have never been assessable at a rate of tax or at a percentage of value different from that used for other real property. Because special franchises cross many municipal boundaries and the entire system may be better valued as a unit, rather than piecemeal, the Legislature delegated to a central agency (now the State Board) the responsibility for valuing special franchises. But that difference in procedure was specifically intended to assure uniformity of assessments, not different levels of assessment. *Metropolitan Street Railway v. State Board*, 174 N.Y. 417, 67 N.E. 69 (1903), *aff'd*, 199 U.S. 1 (1905).

Regardless of the different interim steps in reaching the assessment, the State Board acts merely as the "alter ego" for the local assessors, *City of Mount Vernon v. State Board*, 44 N.Y.2d 960, 408 N.Y.S.2d 323, 380 N.E.2d 155 (1978), and the final assessments are added to the rolls by those local assessors, "with the same force and effect" as any other assessment. RPTL §616(2). As a

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[5] Although some appellees still claim that appellant had an opportunity to present its case administratively, (NYC Motion 12, 16-17; Pleasantville Motion 13-14), the State Board concedes that it does not allow administrative challenges by taxpayers. A-93. Nor was judicial review available in any alternative proceeding. The Appellate Division held that the "issue is now settled: a special franchise holder is precluded from judicially contesting the equalization rates." A-8.

result, the state courts have always recognized the right of special franchise property owners to maintain actions for equalization based on assessments of all other real property.

In *Jamaica Water Supply Co. v. State Board*, 196 N.Y. 39, 89 N.E. 581 (1909), it was held that the "same force and effect" language of §616(2) required that special franchises and other real property had to be assessed equally. However, as noted in that opinion, the State Board of Tax Commissioners did not then have the authority to equalize special franchise assessments, and it was necessary for a taxpayer to commence a judicial proceeding in order to obtain equality. The statutory provision cited by appellees (now in §606) was added in 1911 to permit equalization administratively (N.Y. Laws 1911, ch. 804), but this still did not create a separate classification, and special franchise owners still had the right to judicial review of the administrative actions. See cases cited at J.S. 11.

Appellees themselves admit (see A-81) that the §606 language was merely the legislative recognition that local assessors were not in fact assessing at full value (see *Hellerstein v. Assessor, Town of Islip*, 37 N.Y.2d 1, 371 N.Y.S.2d 388, 332 N.E.2d 274 (1975)), and was required to cause the State Board's assessments to conform to local assessment realities and maintain equality and uniformity between special franchises and other real property.

The legislative objective of uniformity is confirmed by the fact that the equalization rate applied today to special franchises is still calculated by reference to the level of assessment on all real property, not just special franchises. RPTL §1202(1)(a).

Nor does the distinction between personal and real, or tangible and intangible, property, make any difference. The state statute defines all parts of special franchises, whether personal, intangible or otherwise, as real property for tax purposes. RPTL §§102(12)(h) and (17). In both *Hillsborough Township v. Cromwell*, 326 U.S. 620 (1946), and *Brinkerhoff- Faris Co. v. Hill*, 281 U.S. 673 (1930), intangible personal property was assessed at higher rates than real property and tangible personal property. In both cases, state law required that all property be assessed

uniformly. In both cases, this Court held that the failure to grant taxpayers meaningful hearings on the merits with regard to their claims of intentional and systematic assessments at higher percentages of value than other property was a violation of the Due Process and Equal Protection Clauses. The fact that the states could have taxed personal property differently from real property, or tangible property differently from intangible property, was irrelevant because the states did not in fact do so. *Accord, Jamaica Water Supply Co. v. State Board, supra.*

The courts below have held that special franchises are to be assessed at the same percentage of value as all other real property, in furtherance of New York's legislative "objective of equality and uniformity". A-10. Thus, for purposes of *Sioux City Bridge Co. v. Dakota County*, 260 U.S. 441 (1923), there is only one class of property in New York. See *Hillsborough Township v. Cromwell, supra; Brinkerhoff-Faris Co. v. Hill, supra.*

B. Regardless of the Number of Classes, Taxpayers Have a Right to a Hearing.

In response to appellant's claim that, regardless of the number of classes, it has a right to a hearing on the issue of the State Board's failure to obey the statute, appellees urge that *Bi-Metallic Investment Co. v. State Board*, 239 U.S. 441 (1915), holds that equalization rates are "legislative facts" not subject to judicial review by individual taxpayers. Neither *Bi-Metallic* nor any other authority has ever held that equalization rates are "legislative facts", or that individual taxpayers may be denied a hearing with respect to claims that taxes were assessed against them unequally.

1. *Bi-Metallic did not deny taxpayers a hearing on inequality of assessment.*

In *Bi- Metallic*, the board raised all assessed values in Denver by 40%. That action affected every taxpayer in the county equally. This Court ruled that individual taxpayers did not have a right to contest a county-wide change in the level of assessments. However, the taxpayer in *Bi-Metallic* still had a right to a hearing with respect to the specific assessment on its own property.

In that hearing, each taxpayer had the right to show that its "property has been valued at a rate different from that generally prevailing in the county . . . ." 239 U.S. at 444. In effect, in addition to the hearing to which it was entitled, the taxpayer in *Bi-Metallic* was seeking a second hearing, this time with respect to broad policy issues which had no bearing on the issue of individual equality. The only thing denied the taxpayer was a right to this additional hearing.

In *Bi-Metallic*, the Court distinguished its previous decision in *Londoner v. Denver*, 210 U.S. 373 (1908), on the grounds that, in *Bi-Metallic*, the state board was setting policy affecting everyone equally, whereas in *Londoner*, the question was the application of specific facts to a small number of individual taxpayers contesting their own assessments. This distinction, between judicial review of general policy matters affecting all taxpayers alike and the unequal apportionment of taxes to specific taxpayers, has been consistently recognized by subsequent cases and commentators. See, e.g., *United States v. Florida East Coast R. Co.*, 410 U.S. 224, 244-245 (1973); *Minnesota Bd. for Community Colleges v. Knight*, 465 U.S. 271, 283 (1984); Davis, Administrative Law, §12.2 (1978).

Appellant is uniquely and individually affected by the State Board's determination. In some of the jurisdictions involved, it may well be the only taxpayer so affected; in none of the tax units are there more than a handful of taxpayers similarly affected by these rates. *Londoner*, not *Bi-Metallic*, is the controlling case.

2. *The equalization rate is not a "legislative fact".*

Generally, legislative facts are matters that cannot be determined strictly on the basis of evidence, but reflect policy and other legislative-type decisions. Adjudicative facts do not require policy or judgment decisions: whether two times three equals six is an adjudicative fact, not a policy issue.

The Notes of this Court's Advisory Committee on Proposed Rule of Evidence 201 explain:

> Adjudicative facts are simply the facts of a particular case. Legislative facts, on the other hand, are those which have relevance to legal reasoning and the law-making process, whether in the formulation of a legal principle or ruling by a judge or court or in the enactment of a legislative body.

See, also, Davis, Administrative Law §12.3 (1978).

In *Bi-Metallic*, the state board decided what the new level of assessment should be – a legislative-type activity. In the present case, the State Board merely measures the levels already established by others (the assessors in the tax units), and it may neither set nor change those levels. Its function is solely one of discovering the facts and applying some plain mathematics, not making policy. If the raw data it obtains were given to a jury, the jury could use a hand calculator to determine the equalization rate. For example, if the evidence shows that the total of the values of all property in a municipality is $6,000,000, and the total assessments come to $2,000,000, the answer is one-third, or 33.3%. It is that simple.

The courts below ruled that the Legislature has mandated a policy of equality and uniformity of assessment. The Legislature has given the State Board instructions to implement this policy by applying a ratio which "as near as may be" is equal to the ratio between assessed and full values. As the lower court stated, "[T]he standard, 'as near as may be,' is clear." A-19-20. Given that "clear" standard, the State Board has no authority to substitute some other objective and rule that, as a "policy" matter, the number in the example, above, should be 50%, 100% or, as in one case, 166%, instead of 33.3%. Yet that is what it did herein. It systematically and intentionally ignored the legislative policy and violated the "clear" statutory standard.

3. *"Legislative facts" are not immune from judicial review.*

Even if the equalization rate were a legislative fact, appellant would still have a right to judicial review. No case holds that "legislative facts" may be created arbitrarily by an administrative

agency, without regard to that agency's compliance with the law. An administrative agency is not empowered to create legislative facts except to the extent authorized by the applicable statute, and affected citizens may always contest whether the agency has gone beyond its authority. See Koch, Administrative Law and Practice, 637 (1985):

> However, unrestricted use of legislative facts should not be permitted even in a judicial proceeding . . . Although legislative facts are not the kind of facts which can be proved in the traditional way, when they are central to the controversy, some technique should be used to test their validity; legislative facts that are critical to a decision should not enter the record without challenge.

To the same effect, see Davis, Administrative Law Treatise §§12.3, 12.8 and p. 428 (1978), and Notes of Advisory Committee on Proposed Rule of Evidence 201.

In summary, the New York Legislature amended the statute during the pendency of the proceedings below. As a result, at no time has appellant ever had the opportunity, administratively or judicially, to have its evidence on the inequality issues heard and considered on the merits. That is the essential ingredient of Due Process, and it has been denied. *Brinkerhoff-Faris Co. v. Hill, supra.*

CONCLUSION

The motions to dismiss or affirm should be denied. The decision below should be summarily reversed or, alternatively, probable jurisdiction should be noted.

Respectfully submitted,

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Attorney for Appellant

APPENDIX

June 9, 1986

Honorable Thomas J. Lowery, Jr.
New York State Court of Claims
State Office Building
333 East Washington Street
Syracuse, New York 13202

Re: *Con Edison*

Dear Judge Lowery:

As we previously discussed, Con Edison has agreed to accept the valuations contained in the State Board appraisals introduced into evidence at trial for the 1974/75 tax year. Pursuant to our acceptance of the State Board values and a judgment concerning the assessments, I am enclosing a final judgment, broken down by municipality, setting forth the equalization rates actually used for the frozen base property and subsequent property and multiplying those rates by the full values set forth in the State Board's appraisal as separately determined for frozen base and subsequent property set forth in "Appraisal No. 2" of the State Board's appraisal.

I have sent a copy of this judgment to Peter Mafilios of the State Board, so that he may check the numbers for accuracy. However, I would note that the numbers are either from our frozen base stipulation in evidence or the State Board's Appraisal, Appendix IIIB.

We will also shortly be making a motion with respect to the constitutionality of RPTL § 744(1) as it affects the years 1978 through 1983, in order to preserve our rights to appeal. That motion will be made returnable on the first day of trial.

Finally, I am in receipt of Jack's letter concerning the New York City equalization rates. The relevant equalization rates are

contained, with the exception of the last two years, in the second frozen base stipulation. I believe that we can clarify all of the rates at the commencement of the trial.

Respectfully submitted,

Mark S. Tulis

MST:mm
Enclosure
cc: John P. MacArthur, Esq.
Melvin H. Osterman, Jr., Esq.
Lawrence Zimmerman, Esq.
Henry J. Smith, Esq.
Marvin S. Fink, Esq.
Mr. Peter Mafilios

At a Trial Term of the Supreme Court of the State of New York, held in and for the County of Albany at the State Office Building, 333 East Washington Street, Syracuse, New York, on the day of June 1986.

P R E S E N T:

HON. THOMAS J. LOWERY, JR.
Acting Supreme Court Justice.

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In the Matter of

CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.,

Petitioner,

—against—

THE STATE BOARD OF EQUALIZATION AND ASSESSMENT, et al.,

Respondents,

—and—

VILLAGE OF PLEASANTVILLE, et al.,

Intervenors-Respondents.

Index Nos.

11747/74 1555/75
1556/75 1557/75
1558/75 1559/75
1560/75 1561/75
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1574/75 1575/75
1576/75 1577/75
1578/75 3026/75
3027/75

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FINAL JUDGMENT

Petitioner, Consolidated Edison Company of New York, Inc., having brought the above-entitled proceedings to reduce the assessments on its special franchise property located in the City

of New York and certain Westchester Municipalities in which it owns Special Franchise property for the 1974/75 tax year; and the issues in the proceedings having duly come on to be heard before the Honorable Thomas J. Lowery, Jr., Acting Supreme Court Justice at a Special Term of this Court, held at the State Office Building, 333 East Washington Street, Syracuse, New York; and

WHEREAS the proceedings were consolidated with proceedings for tax years 1975/76 through 1977/78 by order of the Supreme Court; and

WHEREAS, the Court having ruled on September 24, 1983 granting the motion of the respondents and intevenors-respondents granting them partial summary judgment against the petitioner dismissing the portions of the petitions seeking to establish that the assessments of petitioner's property were unequal in that the equalization rates used by the State Board of Equalization and Assessment ("SBEA") in determining the assessment did not represent the ratio between the assessed valuation and full valuation in the taxing units where petitioner's property was situated and further denying petitioner's cross-motion seeking to declare RPTL §744(1), as amended by L.1982 Ch. 714, Sections 24 and 29, unconstitutional and void; and

WHEREAS, petitioner has consented solely with respect to the above-entitled proceedings to accept as the full value of petitioner's property the values set forth in the appraisals of the SBEA submitted in evidence at trial for its "Frozen Base" and "Subsequent" property without admitting to the correctness of the SBEA's appraisals for other proceedings or years;

NOW, on motion of Rosenberg & Tulis, Special Counsel for petitioner, it is adjudged and decreed as follows:

1. The proceedings set forth above are hereby severed from the proceedings for tax years 1975/76 through 1977/78, and are separately consolidated for disposition.

2. The assessments before the Court determined by the SBEA and placed on the assessment rolls (totally both "Frozen Base" property and "Subsequent" property for 1974/75 tax roll were as follows:

Municipality	Index No.	Total Assessment
Town of Stony Point	11747/74	$ 36,868,000
NY County	1555/75	$492,315,289
Town of Greenburgh	1556/75	$ 21,442,864
Town of Harrison	1557/75	$ 4,072,853
Town of Mt. Pleasant	1558/75	$ 3,966,368
Town of New Castle	1559/75	$ 7,949,939
Town of North Castle	1560/75	$ 1,430,290
Town of Mamaroneck	1561/75	$ 3,787,892
Town of Pelham	1562/75	$ 1,833,438
Town of Rye	1563/75	$ 3,665,583
Town of Scarsdale	1564/75	$ 2,813,501
Town of Somers	1565/75	$ 55,378,000
Town of Yorktown	1566/75	$ 1,848,765
Village of Ardsley	1567/75	$ 1,489,733
Town of Ossining	1568/75	$ 7,568,114
Town of Eastchester	1569/75	$ 3,767,346
Town of Cortlandt	1570/75	$ 2,874,994
City of Rye	1571/75	$ 2,940,575
City of Peekskill	1572/75	$ 3,826,884
City of New Rochelle	1573/75	$ 12,825,570
City of Mt. Vernon	1574/75	$ 11,072,822
County of Richmond	1575/75	$ 43,818,589
Queens County	1576/75	$314,480,859
Kings County	1577/75	$291,677,785
Bronx County	1578/75	$202,987,316
Town of Bedford	3026/75	$ 5,430,975
Village of Ossining	3027/75	$ 4,267,422

3. The full value of petitioner's property before equalization, as introduced into evidence by the SBEA, and as accepted solely for the purpose of these proceedings by petitioner is as follows:

Municipality	Index No.	Frozen Base Full Value	Subsequent Property Full Value
Town of Stony Point	11747/74	$ -0-	$ 548,668
NY County	1555/75	$ 155,817,086	$ 840,522,342
Town of Greenburgh	1556/75	$ 5,203,060	$ 58,759,889
Town of Harrison	1557/75	$ 1,143,586	$ 22,142,490
Town of Mt. Pleasant	1558/75	$ 1,683,607	$ 22,106,451
Town of New Castle	1559/75	$ 811,621	$ 15,287,530
Town of North Castle	1560/75	$ 250,015	$ 7,105,474
Town of Mamaroneck	1561/75	$ 1,925,727	$ 10,863,766
Town of Pelham	1562/75	$ 920,170	$ 5,695,552
Town of Rye	1563/75	$ 1,840,490	$ 13,899,103
Town of Scarsdale	1564/75	$ 1,635,251	$ 10,126,186
Town of Somers	1565/75	$ -0-	$ 362,518
Town of Yorktown	1566/75	$ 153,637	$ 10,511,629

Village of Ardsley	1567/75	$ 271,598	$ 2,554,613
Town of Ossining	1568/75	$ 1,420,918	$ 16,011,839
Town of Eastchester	1569/75	$ 3,137,623	$ 10,502,457
Town of Cortlandt	1570/75	$ 744,172	$ 20,007,997
City of Rye	1571/75	$ 807,967	$ 9,539,293
City of Peekskill	1572/75	$ 744,734	$ 11,582,033
City of New Rochelle	1573/75	$ 3,416,444	$ 27,089,494
City of Mt. Vernon	1574/75	$ 4,813,621	$ 29,925,009
County of Richmond	1575/75	$ 2,462,731	$ 110,406,677
Queens County	1576/75	$85,470,399	$577,583,353
Kings County	1577/75	$89,948,367	$ 505,261,426
Bronx County	1578/75	$77,003,600	$326,390,747
Town of Bedford	3026/75	$ 277,777	$ 5,927,812
Village of Ossining	3027/75	$ 1,077,795	$ 7,346,256

4. The equalization rates actually utilized by the SBEA in determining the assessments of petitioner's property and binding on this Court on the issue of inequality pursuant to RPTL §744(1), as amended by L.1982 Ch. 714, Sections 24 and 29, were as follows:

Municipality	Index No.	Frozen Base Equalization Rate	Subsequent Property Equalization Rate
Town of Stony Point	11747/74	.75	.130
NY County	1555/75	1.00	.570
Town of Greenburgh	1556/75	.9400	.4400
Town of Harrison	1557/75	.8800	.2500
Town of Mt. Pleasant	1558/75	.9300	.2200
Town of New Castle	1559/75	.8600	.6800
Town of North Castle	1560/75	.8200	.2600
Town of Mamaroneck	1561/75	.9500	.3400
Town of Pelham	1562/75	.9500	.3300
Town of Rye	1563/75	.9700	.2800
Town of Scarsdale	1564/75	.9600	.2700
Town of Somers	1565/75	.7500	.2300
Town of Yorktown	1566/75	.8600	.2500

Village of Ardsley	1567/75	.8800	.6500
Town of Ossining	1568/75	.9200	.5800
Town of Eastchester	1569/75	.9900	.2800
Town of Cortlandt	1570/75	.7600	.2000
City of Rye	1571/75	.9900	.370
City of Peekskill	1572/75	.9200	.440
City of New Rochelle	1573/75	1.000	.510
City of Mt. Vernon	1574/75	1.000	.390
Richmond County	1575/75	.9600	.570
Queens County	1576/75	.9300	.570
Kings County	1577/75	.9800	.570
Bronx County	1578/75	.9600	.570
Town of Bedford	3026/75	.9300	1.24
Village of Ossining	3027/75	.9200	.660

5. Pursuant to RPTL §606 the equalized value of petitioner's special franchise property for the above-entitled proceedings is determined by multiplying the full values set forth in Paragraph 2 above by the equalization rate set forth in Paragraph 3 above. Therefore, the equalized values of petitioner's property for the 1974/75 tax year were as follows:

Municipality	Index No.	Frozen Base Equalized Value	Subsequent Property Equalized Value	Total Equalized Value
Town of Stony Point	11747/74	$ -0-	$ 71,326	$ 71,326
NY County	1555/75	$155,817,086	$479,097,734	$634,914,820
Town of Greenburgh	1556/75	$ 4,890,876	$ 25,854,351	$ 30,745,227
Town of Harrison	1557/75	$ 1,006,355	$ 5,535,622	$ 6,541,977
Town of Mt. Pleasant	1558/75	$ 1,565,754	$ 4,863,419	$ 6,429,173
Town of New Castle	1559/75	$ 697,994	$ 10,395,520	$ 11,093,514
Town of North Castle	1560/75	$ 205,012	$ 1,847,423	$ 2,052,435
Town of Mamaroneck	1561/75	$ 1,829,440	$ 3,693,680	$ 5,523,120
Town of Pelham	1562/75	$ 874,161	$ 1,879,532	$ 2,753,693
Town of Rye	1563/75	$ 1,785,275	$ 3,891,748	$ 5,677,023
Town of Scarsdale	1564/75	$ 1,569,840	$ 2,734,070	$ 4,303,910
Town of Somers	1565/75	$ -0-	$ 83,379	$ 83,379
Town of Yorktown	1566/75	$ 132,127	$ 2,627,907	$ 2,760,034

Village of Ardsley	1567/75	$ 239,006	$ 1,660,498	$ 1,899,504
Town of Ossining	1568/75	$ 1,307,244	$ 9,286,866	$ 10,594,110
Town of Eastchester	1569/75	$ 3,106,246	$ 2,940,687	$ 6,046,933
Town of Cortlandt	1570/75	$ 565,570	$ 4,001,599	$ 4,567,169
City of Rye	1571/75	$ 799,887	$ 3,529,538	$ 4,329,425
City of Peekskill	1572/75	$ 685,155	$ 5,096,094	$ 5,781,249
City of New Rochelle	1573/75	$ 3,416,444	$ 13,815,641	$ 17,232,085
City of Mt. Vernon	1574/75	$ 4,813,621	$ 11,670,753	$ 16,484,374
County of Richmond	1575/75	$ 2,364,221	$ 62,931,805	$ 65,296,026
Queens County	1576/75	$ 79,487,471	$ 329,222,511	$ 408,709,982
Kings County	1577/75	$ 88,149,399	$ 287,999,012	$ 376,148,411
Bronx County	1578/75	$ 73,923,456	$ 186,042,725	$ 259,966,181
Town of Bedford	3026/75	$ 258,332	$ 7,350,486	$ 7,608,818
Village of Ossining	3027/75	$ 991,571	$ 4,848,528	$ 5,840,099

6. The Total Equalized Values for all of the within proceedings being greater than the Total Assessments in Paragraph 1, the assessments are hereby confirmed after a review of all the evidence in the record.

Judgment signed this day of June 1986.

Thomas J. Lowery, Jr.